

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

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**RONALD EDWARD WILLIAMS,**

**Plaintiff,**

**v.**

**9:09-CV-1298  
(FJS/DRH)**

**KEITH DUBRAY, Acting Director, Special  
Housing,**

**Defendant.**

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**APPEARANCES**

**OF COUNSEL**

**RONALD EDWARD WILLIAMS**

**No. 14993**

Cayuga County Jail  
7445 County House Road  
Auburn, New York 13021  
Plaintiff *pro se*

**OFFICE OF THE NEW YORK  
STATE ATTORNEY GENERAL**

The Capitol  
Albany, New York 12224-0341  
Attorneys for Defendant

**CHARLES J. QUACKENBUSH, AAG**

**SCULLIN, Senior Judge**

**ORDER**

Plaintiff filed his initial complaint in this action on or about November 19, 2009. *See* Dkt. No. 1. In a Memorandum-Decision and Order dated February 5, 2010, the Court ordered Plaintiff to file an amended complaint and advised him that allegations relating to his disciplinary sanction would be barred pursuant to the favorable termination rule of *Heck v. Humphrey*, 512 U.S. 477 (1994), "unless Plaintiff 'abandon[ed], not just now, but also in any future proceeding,

any claims he [might] have with respect to the duration of his confinement that [arose] out of the proceeding he [was] attacking in [this] § 1983 suit." *See* Dkt. No. 6 at 10 (quotation omitted).

On or about April 29, 2010, Plaintiff filed his amended complaint. *See* Dkt. No. 9. In that amended complaint, Plaintiff stated that he "waive[d] **for all times** all claims in this action relating to disciplinary sanctions affecting the duration of his confinement." *See id.* at ¶ 14. By Memorandum-Decision and Order dated July 27, 2010, the Court found that "the allegations of the amended complaint [were] sufficient to warrant a response from Defendant Dubray." *See* Dkt. No. 12 at 8.

On September 24, 2010, Defendant Dubray filed a motion to dismiss. *See* Dkt. No. 18. Plaintiff opposed that motion. *See* Dkt. No. 20. On July 13, 2011, Magistrate Judge Homer issued a Report-Recommendation and Order, in which he recommended that the Court deny Defendant's motion to dismiss. *See* Dkt. No. 28 at 12. Neither party filed any objections to this recommendation.<sup>1</sup>

When a party does not object to a magistrate judge's report-recommendation, the court reviews that report-recommendation for clear error or manifest injustice. *See Linares v. Mahunik*, 9:05-CV-625, 2009 WL 3165660, \*10 (N.D.N.Y. July 16, 2009) (citation and footnote omitted). After conducting this review, "the Court may 'accept, reject, or modify, in whole or in part, the . . . recommendations made by the magistrate judge.'" *Id.* (quoting 28 U.S.C. § 636(b)(1)(C)).

The Court has reviewed Magistrate Judge Homer's July 13, 2011 Report-

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<sup>1</sup> On July 21, 2011, Defendant filed his answer to Plaintiff's amended complaint, *see* Dkt. No. 29; and, on July 25, 2011, Plaintiff filed a letter advising the Court that he did not wish to object to Magistrate Judge Homer's Report-Recommendation and Order, *see* Dkt. No. 31.

Recommendation and Order for clear error and manifest injustice; and, finding none, the Court hereby

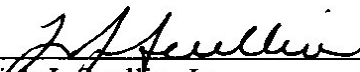
**ORDERS** that Magistrate Judge Homer's July 13, 2011 Report-Recommendation and Order is **ACCEPTED in its entirety** for the reasons stated therein; and the Court further

**ORDERS** that Defendant's motion to dismiss is **DENIED**; and the Court further

**ORDERS** that the Clerk of the Court shall serve a copy of this Order on the parties in accordance with the Local Rules.

**IT IS SO ORDERED.**

Date: July 28, 2011  
Syracuse, New York

  
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Frederick J. Scullin, Jr.  
Senior United States District Court Judge